

King County Public Rules and Regulations

Title	Document Code No.
Illegal Dumping	LUD 13-1
Department/Issuing Agency	Date
Department of Natural Resources and Parks	

Approved

- **1.0 SUBJECT TITLE:** Policies, procedures and protocols for issuing citations for illegal dumping on lands under the jurisdiction or management of King County Department of Natural Resources, Parks and Recreation Division.
 - 1.1 EFFECTIVE DATE: 30 days after approval date
 - 1.2 TYPE OF ACTION: New
 - 1.3 KEY WORDS: 1) Code Enforcement, (2) Park Rule Compliance, (3) Illegal Dumping (4) Littering; (5) Citations
- **PURPOSE:** To establish uniform policies, procedures and protocols for the issuance and processing of citations for illegal dumping on county lands managed by the King County Department of Natural Resources, Parks and Recreation Division by implementing the provisions of King County Code Chapters 7 (Parks and Recreation), 10 (Solid Waste) and 23 (Code Compliance) and King County Public Rules promulgated hereunder.
- **ORGANIZATIONS AFFECTED:** King County Department of Natural Resources and Parks Solid Waste and Parks and Recreations Divisions; King County Office of the Hearing Examiner, King County Office of the Prosecuting Attorney, Civil Division, other King County agencies listed in Section 6.1, King County Park visitors and the public.

4.0 REFERENCES

- 4.1 K.C.C. 7.12.440 Parks and Recreation Rules for use of Facilities Littering.
- 4.2 K.C.C. 7.12.590 Parks and Recreation Rules for use of Facilities Dumping in water prohibited.
- 4.3 K.C.C. 10.04.080 Solid Waste Definitions Littering and unlawful dumping.
- 4.4 K.C.C. 12.36.010 Public Peace, Safety and Morals Offenses Against Public Health and Safety Dumping trash in waterways prohibited.

- 4.5 K.C.C. 23.02.140 Solid Waste General Provisions Improper disposal of solid waste prohibited penalties, restitution
- 4.6 K.C.C. 23.20.020 Solid Waste Code Compliance

5.0 DEFINITIONS:

- 5.1 "Abate" means to take whatever steps are deemed necessary by the director to return a property to the condition in which it existed before a civil code violation occurred or to assure that the property complies with applicable code requirements. Abatement may include, but is not limited to, rehabilitation, demolition, removal, replacement or repair.
- 5.2 "Citation" A citation represents a determination that a civil code violation has been committed and that the person cited is a person responsible for code compliance.
- 5.3 "Contested Hearing" means a hearing requested in response to a citation to contest the finding that a violation occurred or to contest that the person issued the citation is responsible for the violation.
- 5.4 "Director" means the director of the department of natural resources and parks or the director's designee or authorized representative of director pursuant to K.C.C 23.02.010.D.
- 5.5 "*Division*" means the parks and recreation division of the department of natural resources and parks.
- 5.6 "Facility", "facilities", "parks and recreation facility", "parks and recreation facilities" or "park area" means any building, structure, park, open space, trail or other property owned or otherwise under the jurisdiction or management of the parks and recreation division of the department of natural resources and parks.
- 5.7 "Facility manager" means the person designated to manage a specific parks and recreation facility.
- 5.8 "Hearing examiner" means the King County hearing examiner, as provided in K.C.C. Chapter 20.24.
- 5.9 "*Illegal dumping*" means disposing of solid waste in any manner other than in a receptacle specifically provided for that purpose, in any public place, public road, public park or private property or in the waters of King County, in violation of K.C.C. 23.02.140, except as authorized by King County or at the official solid waste disposal facility provided by the county.
- 5.10 "Littering" means to accumulate, or place, throw, deposit, put into or in any land or water or otherwise dispose of solid waste including rubbish, ashes,

garbage, dead animals, industrial solid waste and all other waste material of every kind and description in any manner except as authorized by K.C.C. Title 23.

- 5.11 "*Manager*" means the director of the parks and recreation division of the department of natural resources and parks.
- 5.12 "*Mitigation hearing*" means a hearing requested in response to a citation to explain mitigating circumstances surrounding the commission of a violation.
- 5.13 "*Person*" means any individual, association, partnership, corporation or legal entity, public or private, and the agents and assigns of the individual, association, partnership, corporation or legal entity.
- 5.14 "Person responsible for code compliance" means either the person who the director or director's designee determines, after the investigation and evaluation of evidence, is responsible for illegally dumping.
- **POLICIES:** All enforcement actions shall be conducted in accordance with the procedures of Titles 7, 10 and 23 of the King County Code applicable to illegal dumping.
 - 6.1 The following policies govern the issuance and processing of citations to ensure uniform processing by Parks Staff. Enforcement actions shall be communicated to, and may be coordinated with, other agencies having specific enforcement authority related to the violation. Other agencies may include King County Department of Natural Resources and Parks (Solid Waste and Water and Land Resources Divisions), King County Department of Permitting and Environmental Review, Public Health, Seattle and King County, Washington Department of Ecology, Washington Department of Labor and Industries and the Environmental Protection Agency.
 - 6.2 This citation process is intended to decrease illegal dumping on King County park lands, enhance public use and resource protection, provide a convenient and clear enforcement process and reduce county resources spent on abating illegal dumpings.
 - 6.3 Initiation of the illegal dumping citation effort will be through public education via new releases, web information and signage. In addition, once enacted, there will be a 30 day "warning period" prior to the issuance of any citations.
 - 6.4 Consideration of employee health and safety shall be paramount in the execution of the procedures and policies documented herein.
 - 6.5 All parks staff and managers involved in collecting and documenting evidence and issuing and processing citations shall be trained in the procedures and protocols contained herein.
 - 6.6 Delegation of authority for issuance of citations shall be clearly documented in an official internal memorandum according to department policy.

- 6.7 If it is determined to be safe and reasonable to do so, field staff encountering an illegal dumper may request that the violator cleanup their garbage and dispose of it legally and take no further steps to pursue issuance of a citation.
- 6.8 If it is determined to be safe and reasonable to do so, field staff encountering an illegal dumper shall ask for identification, preferably Washington State driver's license. If the illegal dumper provides identification field staff shall record the Washington State driver's license number, and any other identifying information from any other form of identification that is provided. Field staff shall record the name of the illegal dumper and the address from the identification provided. If it determined to be safe and reasonable to do so, field staff shall ask the illegal dumper for their name and current address.
- 6.9 If field staff or another witness obtains the license plate number from the illegal dumper's vehicle or a vehicle associated with the illegal dumper, the Parks Manager or his/her designee shall check the Department of Licensing Vehicle Information Processing System (VIPS) to determine the name of the registered owner of the vehicle and the last known address. If the VIPS system is not available or not in use, the Parks Manager or his/her designee shall determine the name and last known address of the registered owner of the vehicle through any other system or method available to verify the Department of Licensing data.
- 6.10 If an illegal dumper refuses to comply with a request to remove dumped garbage, or an illegal dumping is discovered, field staff will initiate the evidence collection and documentation process, as follows using the "Certified Inventory of Evidence" Form.
- 6.11 Evidence relevant to the illegal dumping violation will be collected, recorded secured, and stored. Illegal dumped material shall be photographed, measured, and documented as set forth in these policies but, due to potential environmental hazards and health concerns, evidence may be disposed of once these procedures have been followed and any appeal process has been completed.
- 6.12 If after review of all relevant evidence, the Parks Manager concludes that sufficient and supportable evidence of illegal dumping exists; Parks managers will issue a citation.
- 6.13 Alleged violators will be required to pay a civil fine and may be ordered to pay an additional restitution fee based on amount of illegally dumped material.
- 6.14 Citation appeals can be requested and will be processed through either mitigation or contested hearings administered by the Office of the Hearing Examiner.

7.0 **PROCEDURES**

- 7.1 Investigation: When Facility Managers receive information regarding illegal dumping, they shall take the following investigative steps if feasible and practicable:
 - 7.1.1 Photograph and measure the illegal dumping pile.
 - 7.1.2 Determine the size of the pile in cubic feet/yards.
 - 7.1.3 Note location of the dumping (can be supported by hard copy map or GPS location information).
 - 7.1.4 Determine whether any documents or items with identifying information can be located in or around the illegal dumping pile. If documents or items with identifying information are located, collect these items or documents. If three (3) or more items bearing the name of an individual are located, note this in the certified Inventory of Evidence form referred to below.
 - 7.1.5 Obtain witness statements from any individual who may have knowledge or information relevant to the illegal dumping. Ensure that all witnesses sign these statements under penalty of perjury in accordance with RCW 9A.72.085.
 - 7.1.6 Facility Managers and other parks staff involved in the investigation shall prepare a witness statement which contains a summary of their knowledge regarding the illegal dumping. These statements shall be signed under penalty of perjury in accordance with RCW 9A.72.085.
 - 7.1.7 Complete and sign a "Certified Inventory of Evidence" Form with information described above (Citation number to be added later by Parks Management).
 - 7.1.8 Place all collected evidence in a designated plastic evidence bag(s).
 - 7.1.9 Report illegal dumping to the Maintenance Supervisor or Parks Resource Program Supervisor (on weekends report is submitted to the Duty Officer).
 - 7.1.10 Cleanup illegal dumping as soon as possible.
 - 7.1.11 By end of work shift, deliver completed "Certified Inventory Evidence" form (along with attached photos and evidence bag) to secure evidence storage area at Parks Renton Shop.
 - 7.1.12 Sign the "Chain of Custody" relinquishment section of the "Certified Inventory of Evidence" Form to document release of evidence.
 - 7.1.13 Staff collecting/documenting evidence should prepare a witness statement outlining actions taken and information and sign this statement under penalty of perjury. Staff may need to testify before the Hearing Examiner if an alleged violator appeals the citation.
- 7.2 Review of Evidence and Issuance of Citation: Citations for illegal dumping shall be issued and processed by designated Parks Managers according to the following:

- 7.2.1 Review the "Certified Inventory of Evidence" Form to ensure its completeness and accuracy.
- 7.2.2 Conduct review of evidence collected including field observations, statements of witnesses, documentary and physical evidence, and other relevant information. After review, Parks Manager shall determine whether an illegal dumping violation was committed by the person referred. If Parks Manager determines that there is sufficient evidence to support issuance of a citation, Parks Manager shall follow the procedures set forth below.
- 7.2.3 Ensure that appropriate citation number is added to the "Certified Inventory of Evidence" Form" and the label to be attached to the evidence bag(s).
- 7.2.4 Sign the "Chain of Custody" relinquishment section of the "Certified Inventory of Evidence" Form to document acceptance of evidence collected from field staff.
- 7.2.5 Determine appropriate fine and restitution (if applicable) based on:
 - 7.2.5.1 Review of evidence collected and documented.
 - 7.2.5.2 Required restitution payment fees are at the discretion of citation issuer, and based on the following: If amount dumped is greater than one cubic foot, but less than one cubic yard, restitution payment is \$50 per cubic foot of material deposited or twice the actual cost of cleanup, whichever is greater. If amount dumped is greater than one cubic yard, restitution charge is \$100 cubic yard or twice the actual cleanup cost, whichever is greater.
 - 7.2.5.3 Verification of any previous violations by alleged offender through review of the Illegal Dumping Citation Tracking System. Civil Penalty shall be \$100 if no previous violations and \$500 if one or more violations. With two or more previous violations, the penalty shall be double the rate of the previous penalty.
- 7.2.6 Complete Parts 1 and 2 of the citation ensuring all information is complete, including signature of issuer. Include in Part 1 of the citation a summary of relevant facts and evidence.
- 7.2.7 Place the evidence, supporting documentation in the designated secure evidence storage container area.
- 7.2.8 Provide completed original citation to the Administrative Staff responsible for citation mailing and tracking.
- 7.2.9 Per K.C.C. 23.20.040, a citation issued may be revoked by the issuer if the original citation was issued in error, if a party to a citation was incorrectly named or other justifiable reasons.

- 7.3 Citations for illegal dumping shall be processed by Parks Administrative staff according to the following procedures.
 - 7.3.1 Mail citation two copies of the citation within 24 hours of issuance, if possible. One copy shall be mailed regular US mail and the other *Certified Return Receipt*. Citation shall be mailed to the last known address, which may require the Parks Manager or his/her designee accessing the Department of Licensing Vehicle Information Processing System (VIPS) to determine the name of the registered owner of the vehicle and the last known address. Three days after the date the citation is mailed is date the 14 calendar day citation response clock begins.
 - 7.3.2 Stamp citation copies with a "Certificate of Authenticity" certifying that the copy is a true and accurate copy of the original.
 - 7.3.3 Complete a "Certificate of Service" Form documenting date citation mailed. This form must be dated same day as citation is mailed.
 - 7.3.4 Document full citation information in Illegal Dumping Citation Tracking System.
- 7.4 Requests from alleged violators for either mitigated or contested hearings shall be processed by Parks Administrative staff according to the following procedures.
 - 7.4.1 Requests for hearings shall be sent to the Hearing Examiner's Office within five business days of receipt of the request. A copy of the alleged violator's response to the citation and their Statement of Appeal shall also be transmitted to the Hearing Examiner.
 - 7.4.2 When requests for hearings are received, this information shall be noted in the Illegal Dumping Citation Tracking System and notification provided to the Parks Manager who issued the citation.
- 7.5 Requests from alleged violators for mitigated hearings shall be processed by the Office of the Hearing Examiner according to the following procedures:
 - 7.5.1 Schedule a mitigation hearing to be held within thirty days after the department has provided a notice of the request; and
 - 7.5.2 At least ten days before the date of the mitigation hearing, provide notice of the time, place and date of the hearing by first class mail to the alleged violator (via the address provided in the request for hearing) and to King County Parks and Recreation.
 - 7.5.3 Conduct an informal non evidential hearing to determine whether the person's explanation justifies reduction of the civil penalty or restitution.
 - 7.5.4 Enter an order finding that the person cited committed the violation and assessing civil penalties and cleanup restitution payment, if applicable.

- 7.5.5 Provide notification of the order to the Parks and Recreation Division. The hearing examiner's decision constitutes the final agency action.
- 7.5.6 A cited person's failure to appear for a scheduled hearing shall result in an order being entered that the person cited is the person responsible for code compliance and assessing the applicable civil penalty and if applicable, cleanup restitution payment.
- 7.6 Requests from alleged violators for contested hearings shall be processed by the Office of the Hearing Examiner according to the following procedures:
 - 7.6.1 Schedule a contested hearing to be held within sixty days after the department has provided a notice of the request; and
 - 7.6.2 At least twenty days before the date of the mitigation hearing, provide notice of the time, place and date of the hearing by first class mail to the alleged violator (via the address provided in the request for hearing) and to King County Parks and Recreation Division.
 - 7.6.3 Contested hearings shall be conducted pursuant to K.C.C. 20.24.170, 23.20.080 and the rules of procedure of the King County hearing examiner.
 - 7.6.4 If the citation is sustained at the hearing, the hearing examiner shall enter an order finding that the person cited committed the violation.
 - 7.6.5 Provide notification of the order to the Parks and Recreation Division. The hearing examiner's decision constitutes the final agency action.
 - 7.6.6 A cited person's failure to appear for a scheduled hearing shall result in an order being entered that the person cited is the person responsible for code compliance and assessing the applicable civil penalty and if applicable, cleanup restitution payment.

RESPONSIBILITIES:

- 8.1 <u>Facility Managers</u> are responsible for installing park rule signage (including "no dumping" signage) on park property, securing access to eliminate opportunities for dumping activity, cleaning up illegal dumping sites, collecting evidence about observed or suspected violations (through written description, photographs and maps), documenting information on a Certified Inventory of Evidence form, reporting dumpings to the appropriate Parks manager, transmitting the Certified Inventory of Evidence form and supporting evidence in a timely fashion to the designated secure location/Parks Manager, documenting release of the evidence through signature on the Certified Inventory of Evidence form and attending mitigated or contested hearings regarding citation appeals if requested.
- 8.2 <u>Designated Park Division Mangers</u> are responsible for reviewing illegal dumping evidence and documentation, receiving and documenting the release of evidence through on a Certified Inventory of Evidence Form, ensuring secure evidence

storage, issuing citations when sufficient evidence exists, overseeing the mailing of citations, managing appropriate citation tracking, making determinations of need for referral of non- compliance cases to the Prosecuting Attorney's Office and attending mitigated or contested hearings regarding citation appeals if requested.

- 8.3 Parks Administration Staff is responsible for documenting violations, mailing out citations, certifying authentic of citation copies, completing "Certificate of Service" forms verifying mailing date of citation, distributing relevant citation information to county staff, tracking status of citations, receiving and recording citation responses, requesting hearings with the Hearing Examiner, referring citation non-payments to designated collection agencies and maintaining evidence and files (hard and electronic).
- 8.4 <u>Hearing Examiner</u> is responsible for reviewing alleged violators Statement of Appeals, and making final orders via either contested or mitigation hearings. Also responsible for notifying the alleged violator of the hearing date 10 days before hearing occurs.
- 8.5 <u>Prosecuting Attorney</u> is responsible for handling referral of non-compliance cases of illegal dumping citations for possible prosecution.

9.0 APPENDICES:

- 9.1 Sample Citation
- 9.2 Certified Inventory of Evidence Form
- 9.3 Certificate of Service Form

APPENDICES 9.1 - SAMPLE CITATION



Parks Division
Department of Natural Resources and Parks
201 S. Jackson St. #700
Seattle, WA. 98104

CITATION FOR CIVIL CODE VIOLATION

Citation issued to:	Date issued:		
Mailing Address:	Location of dumping:		
Name of Park Manager:			
Signature of Park Manager:			
I declare under penalty of perjury as provided in RCW 9A			
citation. (Ord. 16278 § 15, 2008: Ord. 13263 § 17, 1998).			
PART 1 DESCRIPTION OF VIOLATION AND CODE BE	EING CITED		
You are being cited for the following violation:			
☐ Illegal Dumping	Per K.C.C. 23.02.140		
DESCRIPTION:			
PART 2 CIVIL PENALTIES, FINES, AND RESTITUTION			
This citation represents a determination that a civil code v	riolation has occurred and carries the following civil		
penalties, fines, restitution, or all of them:			
☐ \$100 (no previous violations)			
\$500 (one or more previous similar violations)			
\$ restitution payment (\$50 per cubic foot or twice actual cleanup costs, whichever is greater.)			
\$ restitution payment (\$100 per cubic foot or twice actual cleanup costs, whichever is greater.)			
TOTAL AMOUNT DUE: \$			

This citation does not limit the Parks and Recreation Division from taking other enforcement actions as deemed necessary.

PART 3 RESPONSE OPTIONS

You must respond to this citation no later than <u>14 days</u> after the third business day this citation was mailed to you (see postmark for date of mailing).

- You have three options for response listed on the back of this citation. Choose ONE option and check only ONE box.
- Failure to respond to this citation or to appear at a requested hearing renders this citation a final determination that the conditions described in the citation existed, constituted a civil code violation, and that the person cited is liable.
- Non-compliance with this citation could mean your case will be referred to the Prosecuting Attorney's Office for prosecution and/or to a King County Collections Agency.

outcome of the appeal.

FORM CONTINUES ON BACK SIDE OF THIS PAGE Citation Response Process

STEP ONE: Choose from the following three options:

OPTION 1 OPTION 2 OPTION 3 Uncontested Citation Mitigation Hearing Process Contested Hearing Process I request a hearing to I contest the determination I do not contest the citation. I understand that the explain mitigating that the violation occurred or circumstances surrounding the record will show that I am the that I am responsible for the violation that resulted in the person cited, and I am violation. At any hearing to responsible for the code citation. contest the determination that a violated listed in this citation. civil code violation has occurred, If you request a mitigation hearing, the county has the burden of you will be deemed to have Submit the following: proving, by a preponderance of committed the violation, but will be the evidence, that the violation A copy of this citation given the opportunity to explain the was committed. circumstances that led to the Payment of the total amount violation, and you may request a due as specified on the front reduction in the civil penalty. of this citation Submit the following: Submit the following: A copy of this citation A copy of this citation A Statement of Appeal Written description of mitigating circumstances The Statement of Appeal must (include photos and be received by King County supporting documentation as Parks within twenty-one (21) needed) days of the date of service of The King County Hearing this citation. The statement of Examiner will schedule a hearing appeal must include; why this and notify you of the time, place, citation is improper or unfounded; and date of your hearing by first substantial relevant facts and class mail to the address you reasons in support of the provide below. allegation of error; and the desired

If you chose option 2 or 3 the King County hearing examiner will schedule a hearing and notify you of the time, place, and date of your hearing by first class mail to the address you provide below.

STEP TWO: Fill in the following information:	
Name:	Mailing Address: (where a notice of hearing will be sent)
Phone #:	
Your signature:	

[Parks and Recreation Division] Effective Date:

[Document Code No. LUD 13-1] Page 12 of 14

STEP THREE: Make a copy of this filled-out form and required supporting materials (see Options 1, 2 and 3) for your records.

Mail the originals to:

King County Department of Natural Resources and Parks Parks and Recreation Division 201 S. Jackson St, # 700 Seattle, WA 98104

Your response $\underline{\text{MUST}}$ be postmarked no later than $\underline{\text{14 days}}$ after the third business day this citation was mailed to you.

Call the Parks and Recreation Division Mon- Fri: 8:00 am to 4:00 pm at 206-477-4527, TTY Relay: 711, if you have questions about this citation. Alternate Formats Available

APPENDICES 9.2 - CERTIFIED INVENTORY OF EVIDENCE FORM



CERTIFIED INVENTORY OF EVIDENCE (Use one form for each site)

Citation Number:	
Location found	Description of Evidence
CHAIN OF CUSTODY	I declare under penalty of perjury as provided in RCW 9A.72.905m setting forth facts supporting issuance of this citation. (Ord. 16278 § 15, 2008: Ord. 13263 § 17, 1998).

Date and Time	Relinquished By Sign & print name	Received By Sign & print name	

APPENDICES 9.3 - CERTIFICATE OF SERVICE FORM CERTIFICATE OF SERVICE

Ι,			, hereby certify and declare as follows:
		(NAME)	• • •
	1. I am a		employed by the Parks Division of the
	King C	County Department of	f Natural Resources and Parks, am over the age of 18, and am
	compe	tent to testify herein.	
	2. On		I caused to be delivered the original Citation (Citation
			eceipt mail and one true copy by First Class U.S. Postal
			eccept man and one true copy by First Class O.S. Postar
	Service to:		
		Who:	
		Address:	
		CM#: Number on	Return Receipt:
	I declare u	nder penalty of perjui	ry under the laws of the State of Washington that the foregoing
is tru	e and corre	ct.	
DATE	D this	_ day of	at Seattle, Washington.
		В	y:(Name, Job Title)
			(NAME, JOB TITLE)